



# National Security Report

Background and Perspective on Important National Security and Defense Policy Issues,

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## From the Chairman...

Nuclear deterrence continues to be a cornerstone of U.S. national security. As such, a robust nuclear deterrent capable of maintaining strategic stability is indispensable. The emerging post-Cold War world threat environment, characterized by an unstable and unpredictable Russia that retains thousands of nuclear weapons, China's rapid modernization of its nuclear forces, and the proliferation of nuclear weapons and technology to rogue states and Third World nations, makes maintaining a nuclear deterrent both more imperative and complicated than during the Cold War.



The Anti-Ballistic Missile (ABM) Treaty – negotiated during the Cold

## Nuclear Deterrence: The Cornerstone of U.S. National Security

War, signed with a country that no longer exists, and consciously intended to perpetuate vulnerability to ballistic missile attack, is a relic of a bygone era. Indeed, the ABM Treaty was controversial 27 years ago and, in the face of today's emerging missile threat from rogue states like Iran and North Korea, makes little sense today.

Indeed, it seems that continuing to abide by the Treaty today appears to be more a matter of Administration policy than of international law. Not only does the United States have the

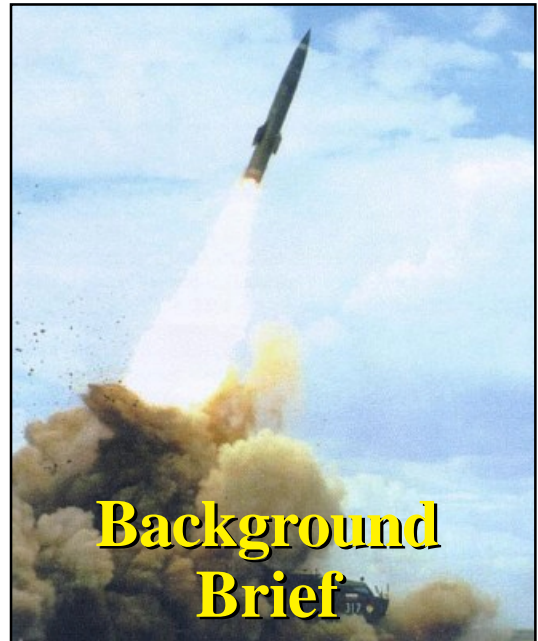
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## Communiqués and Treaties are Poor Shields:

### Implications of the U.S. – Russian Joint Statement on the ABM and START III Treaties

On June 20, 1999, President Clinton and Russian President Boris Yeltsin agreed to the "Joint Statement Between the United States and the Russian Federation Concerning Strategic Offensive and Defensive Arms and Further Strengthening of Stability" that called for discussions later this summer on a third Strategic Arms Reduction Talks (START III) treaty and on strengthening the Anti-Ballistic Missile (ABM) Treaty. According to Administration officials, these discussions will begin in Moscow on August 17th. However, serious questions remain over whether the Administration's commitment to continued reductions in nuclear arsenals and past treaties – in particular, the 1972 ABM Treaty – will serve to increase or decrease American security in a rapidly changing and increasingly dangerous international environment.

The Administration has hailed the Joint Statement as a major achievement. According to National Security Adviser Sandy Berger, this is "the first time the Russians have agreed to discuss changes in the ABM Treaty that may be necessitated by a national missile defense (NMD) system were we to decide to deploy one." The Joint Statement also moves the United States and Russia closer to a third round of nuclear weapons reductions under the Strategic Arms Reduction Talks (START) despite the fact that the Russian Duma, or parliament, has yet to ratify the START



Credit: The Fallout Shelter

## Background Brief

II treaty. The fundamental question is whether these two negotiations will leave the United States more or less secure in a world marked by the rapid proliferation of missile technology and weapons of mass destruction. Has the traditional arms control "theology" been rendered obsolete by the variety of post-Cold War threats and challenges facing the United States? Understanding the origins of the ABM and START treaties and their evolution since the demise of the Soviet Union sheds light on this question.

### The ABM Treaty

The ABM Treaty, concluded between the United States and the USSR in 1972, prohibits the deployment of a ballistic missile defense system to defend the

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territory of the United States. It was intended to prevent deployment of missile defenses that could undermine the Cold War theory of mutual security being best preserved if all parties leave themselves vulnerable to nuclear attack. This Cold War strategy was referred to as Mutual Assured Destruction, with the appropriate acronym of MAD.

After the treaty entered into force in 1972, the United States scaled back its missile defense efforts. The treaty had an even more far-reaching effect, however, as it inhibited the development by the United States of many of the required building blocks for a national missile defense system by banning the development, testing, and deployment of sea-based, air-based, space-based, or mobile land-based ABM systems and ABM system components (including interceptor missiles, launchers, and radars or other sensors that can substitute for radars). In stark contrast to U.S. inaction, Russia built and today maintains and continues to modernize a sophisticated strategic missile defense system – the world's only such anti-ballistic missile defense system. Some estimates indicate Russia's missile defense system could protect nearly 80 percent of Russia's population from a limited nuclear attack.

Much has changed, both strategically and technologically, since the ABM Treaty was first conceived. Most strikingly, the Soviet Union no longer exists, and the proliferation of missiles and weapons of mass destruction has radically altered the strategic environment. The threats posed by rogue regimes such as North Korea differ greatly from threats posed by the Soviet Union, and Russia's increasing reliance on nuclear weaponry to preserve its declining status as a great power complicates the relatively simple calculus that underpinned the ABM Treaty. Moreover, as U.S. investments in missile defense technology mature, the feasibility of deploying an effective national missile defense system becomes increasingly apparent.

In reaction to these strategic and technological changes, U.S. policy and adherence to the ABM Treaty has become increasingly hard to understand and consequential for the future of U.S. missile defenses. In 1993, the Clinton Administration sought to reach an agreement with Russia on a "demarcation line" to distinguish between strategic missile defense systems and less capable Theater Missile Defense (TMD) systems. The demarcation agreement, concluded on September 26, 1997, imposed limits on the capabilities of U.S. theater missile defenses – capabilities that the ABM Treaty never intended to restrict.

The Administration also began negotiations in 1993 on an agreement to determine which states of the former USSR would be successors to the Soviet Union with regard to the ABM Treaty. The resulting and highly controversial September 1997 agreement named Russia, Ukraine, Belarus, and Kazakhstan as treaty successors to the Soviet Union. Remarkably, this agreement is so controversial that, two years later, the President still has not submitted it to the U.S. Senate for advice and consent. Regardless, the most significant effect of adding parties to the ABM Treaty is that it will be significantly more difficult for the United States to negotiate changes to the treaty to permit deployment of effective national missile defenses.

Even as the Administration continues its efforts to preserve the viability of the ABM Treaty, two recent studies have challenged the legal status and validity of the treaty. One of these studies, *The Collapse of the Soviet Union and the End of the 1972 Anti-Ballistic Missile Treaty: A Memorandum of Law*, by specialists in constitutional and public law at the firm Hunton and Williams, concludes: "The ABM Treaty no longer



**Advances in missile technologies, including "hit-to-kill" technology demonstrated by this successful THAAD intercept, have made the feasibility of effective missile defenses increasingly apparent.**

binds the United States as a matter of international or domestic law. This is because the Soviet Union has disappeared, and there is no state, or group of states, capable of implementing the Soviet Union's obligations under the ABM Treaty in accordance with that agreement's terms." Despite such assessments, the Administration continues to view the treaty as the "cornerstone of strategic stability."

Though Administration officials have portrayed impending negotiations with Russia as an opportunity to renegotiate the ABM Treaty to allow U.S. development of national missile defenses, the Joint Statement seems to indicate that the negotiation's primary purpose may be to preserve the ABM Treaty.

### ***The START Negotiations***

The first Strategic Arms Reduction Talks (START I) treaty was signed in Moscow on July 31, 1991. The treaty, approved by the U.S. Senate in October 1992 and by the Russian Duma one month

later, required Russia and the United States to reduce their strategic nuclear forces to 6,000 deployed warheads on each side, a limit both parties have nearly achieved today.

The START process produced a second treaty (START II) between the United States and Russia on January 3, 1993, that limits each side to 3,000-3,500 deployed warheads and bans all multiple-warhead intercontinental ballistic missiles (MIRVed ICBMs). The ban on MIRVed ICBMs is considered one of the most important provisions of START II. MIRVed ICBMs – in which Russia maintains a substantial advantage – are considered to be the most destabilizing weapons. The ability to deploy as many as 10 warheads on a single missile makes them lucrative targets and in the minds of some, a “use it or lose it” weapon.

Although the White House and the Kremlin quickly reached agreement on START II, the Russian Duma has still not approved the treaty. The majority of the Duma is made up of Communists and hard-liners who generally consider START II disadvantageous to Russia and who view nuclear weapons as Russia’s only remaining claim to great power status. Indeed, most Duma members advocate “skipping” START II and negotiating START III to correct the “errors” of START II that hard-liners perceive as “unfair” to Russia. Nonetheless, Presidents Clinton and Yeltsin agreed at the Helsinki Summit in

March 1997 that the United States and Russia would only begin negotiations on START III after START II enters into force.

Despite the 1997 agreement not to negotiate START III until START II is approved by the Russian Duma, Russia and the United States almost immediately began unofficial negotiations over “what a START III package might look like.” Thus far, this “picture” of START III would limit deployed warheads to between 2,000 and 2,500 by December 31, 2007, and include measures to increase transparency of strategic nuclear warhead inventories and in the destruction of strategic nuclear warheads. Unfortunately, as the United States further reduces its nuclear arsenal in conformity with bilateral START agreements, the impact of other nations’ growing nuclear arsenals not bounded by START – such as China – take on greater significance.

Of particular concern, the 1997 Helsinki Summit foreshadowed what may happen to the START II treaty during upcoming START III discussions. At Helsinki, the United States agreed to extend the elimination period for nuclear weapons from 2003 until the end of 2007. Although all missiles and warheads originally scheduled to be eliminated in 2003 are to be “deactivated” while awaiting elimination in 2007, the term “deactivated” is undefined in any agreement and is yet to be negotiated. Critics charge that extending the

elimination period allows Russia to retain its destabilizing MIRVed ICBMs for an additional four years, effectively canceling one of the most important and stabilizing achievements of START II. This interpretation appears to be shared by senior Russian military officers who, after Helsinki, flight-tested the SS-18 and other MIRVed ICBMs for the stated purpose of extending their useful service life until 2007.

## *The Implications of the Joint Statement*

As the bipartisan Rumsfeld Commission unanimously concluded last July, the threat to the United States posed by ballistic missiles and the weapons of mass destruction they can carry is, “broader, more mature and evolving more rapidly than has been reported in estimates and reports by the intelligence community.” As a consequence, the commission noted that the United States could have, “little or no warning” of a ballistic missile threat.

Despite assertions to the contrary, the June 20 Joint Statement does not bode well for the development of U.S. missile defenses, as there is a fundamental disagreement over the statement’s intent. Russia did not agree to accommodate changes to allow the United States to deploy effective missile defenses, but only to discuss possible amendments to the ABM Treaty. More substantively, the Joint Statement reasserts the centrality of the ABM Treaty to U.S.-Russian relations, and has “the Parties reaffirm their commitment to that Treaty.” According to the statement, the purpose of talks on the ABM Treaty is, “to strengthen the Treaty, to enhance its viability and effectiveness in the future.” Thus, it appears that a higher priority is being placed on adhering to the 27-year old treaty than on allowing the development of effective missile defenses.

Indeed, the Joint Statement itself nowhere explicitly mentions developing effective missile defenses as a purpose or focus of future talks. Rather, it includes ambiguous language stating that talks may, “consider possible changes in the strategic situation that have a bearing on the ABM Treaty.” The statement does, however, explicitly recognize past agreements to *restrict* missile defense development and deployment: “The Parties emphasize that the package of agreements signed on September 26, 1997, in New York is important...for the effectiveness of the ABM Treaty, and they will facilitate the earliest possible

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An artist's depiction of a Russian SS-25 ICBM launch.



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ratification and entry into force of those agreements.”

In stark contrast to Administration policy, Congress has long recognized the importance of effective missile defenses to America’s future security. In May 1999, the Congress passed H.R. 4, declaring it to be the policy of the United States to deploy national missile defenses. Although the President signed H.R. 4 on July 22, 1999, President Clinton simultaneously declared, “No decision on deployment has been made... In making our determination [on deployment in the future], we will also review progress in achieving our arms control objectives, including negotiating any amendments to the ABM Treaty that may be required to accommodate a possible NMD deployment.”

The Administration’s reluctance to commit to a national missile defense system is difficult to comprehend considering that, since release of the Rumsfeld Commission’s report, Administration officials have increasingly acknowledged the seriousness of the ballistic missile threat. Recently, Secretary of Defense William Cohen stated that ballistic missiles, “will soon pose a danger not only to our troops overseas but also to Americans here at home.” Despite this recognition, the Administration continues to link development and deployment of U.S. missile defense programs to what can be negotiated with the Russians under the ABM Treaty – a treaty that does not even address the ballistic missile threat from China, North Korea, Iran, or other nations developing and deploying such weapons.

The implications of the June 20 Joint Statement for the strategic nuclear balance also remain uncertain. Discussions on START III, as agreed to in the Joint Statement, present Russia with the opportunity to undo the most important provisions of START II and impede U.S. plans for deployment of a national missile

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legal right to withdraw from the treaty, but two recent legal analyses conclude that the ABM Treaty is no longer legally binding, as one of the two original parties to the Treaty (the Soviet Union) no longer exists.

More fundamentally, our nation should not be negotiating with the Russians to amend any treaty if it means “dumbing down” U.S. missile defense technology or if it results in artificial constraints on the effectiveness or timeliness of a defense for the American public.

The threat of ballistic missile attack is real and it is here today. The bipartisan Rumsfeld Commission report of July 1998, identified in stark terms the growing ballistic missile threat to the United States and formed the backdrop for the Congress’ approval earlier this year – with overwhelming majorities in both the House and Senate – of H.R. 4, a bill making it the policy of the United States to deploy a national missile defense.

However, the Administration’s recent joint statement with Russia announcing agreement to explore renegotiation of the ABM Treaty and the initiation of discussions on a third Strategic Arms Reduction Talks

treaty, before the Russian Duma has even approved START II, may bode ill for making deployment of effective missile defenses a reality in the near future. In the past, the Administration and Russia have both used ABM Treaty discussions, alleged to be necessary to secure Russian approval of START II, to impose delays and technological restrictions on U.S. theater missile defense programs. Now, joint discussions could result in U.S. national missile defenses being hamstrung, while ABM Treaty and START III discussions provide Russia with an opportunity to rewrite START II, which was ratified by the U.S. Senate three years ago.

Nuclear deterrence will remain a cornerstone of our nation’s security in the coming decades. But while future strategic arms reductions *are* possible, they ought not to be considered until Russia complies with its current arms control obligations. In the end, our ability to defend Americans from the growing threat of ballistic missile attack will not be a matter of arms control but instead will be tied to our ability to deploy an effective missile defense system. Any “agreement” with Russia must reflect this priority – U.S. security is and must remain non-negotiable.

defense system. For example, public statements by Russian officials and defense experts advocate using START III to reverse the ban on MIRVed ICBMs, impose a ban on more stabilizing MIRVed SLBMs (where the U.S. has an advantage), establish prohibitive technical restrictions on U.S. national missile defenses, and preserve the Russian advantage in tactical nuclear weapons.

In the post-Cold War era, the nuclear balance has become a more complex calculation, and much of the equation lies outside the framework of U.S.-Russian relations. The ABM Treaty and START negotiations do not take into account the volatile developments in southern Asia,

where both India and Pakistan have recently tested nuclear devices and increased the pace of their missile development programs. Furthermore, neither of these bilateral treaties can account for potential increases in China’s nuclear arsenal, North Korea’s expanding missile and nuclear capabilities, and the clear ambitions of Iraq, Iran and other rogue nations to develop such systems. Under such circumstances, it is questionable whether current and future U.S. security needs are well served by a Cold War strategy that subordinates missile defenses to the preservation of nuclear parity in strategic offensive forces with a weakened Russia, to the exclusion of these other growing threats.